

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§ CRIMINAL NO. 4:05CR188
v. §
§
§ TRAMAIN JARROD KELLUM §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 16, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Robert Arrambide. The Government was represented by Mandy Griffith.

On April 26, 2006, the Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to 46 months imprisonment followed by a 3-year term of supervised release for the offenses of possession of a firearm by an unlawful user of a controlled substance. Defendant began his term of supervision on August 21, 2008.

On October 20, 2009, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 27). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2)

Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; (4) Defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training or other acceptable reasons; and (5) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The petition alleges that Defendant committed the following violations: (1) on July 19, 2009, Defendant was arrested by the Denison, Texas Police Department and charged with possession of marijuana in a drug free zone, a Class A misdemeanor, and the case has been referred to the Grayson County District Attorneys Office for prosecution; (2) Defendant has failed to obtain employment since returning to the Eastern District of Texas on or about March 1, 2009; and (3) Defendant failed to notify the U.S. Probation Officer of his arrest on July 19, 2009, within seventy-two hours.

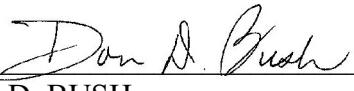
At the hearing, the Government withdrew its allegations regarding the violation of conditions (1) through (3) above and Defendant entered a plea of true to the alleged violations of conditions (4) and (5) above. The Court finds Defendant violated the terms of his supervised release and that Defendant's supervised release should be revoked. Defendant has waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release.

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with no supervised release to follow.

SIGNED this 18th day of November, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE